

1 THE HONORABLE THOMAS S. ZILLY
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 RYAN DIAZ, et al.,

10 Plaintiffs,

11 v.

12 NINTENDO OF AMERICA INC.,

13 Defendant.

No. 2:19-cv-01116-TSZ

DECLARATION OF ERIC J. WEISS IN
SUPPORT OF MOTION TO EXTEND
INITIAL SCHEDULING DEADLINES

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15 I, Eric J. Weiss, declare as follows:

16 1. I am an attorney with Perkins Coie LLP, and we represent Nintendo of America
17 Inc. (“Nintendo”) in this action. I am admitted to practice law in the states of Washington,
18 Wisconsin, and Illinois and am admitted to this Court. I make this Declaration in support of
19 Nintendo’s Motion to Extend Initial Scheduling Deadlines. I am over the age of 18 and
20 competent to testify to the matters in this Declaration. I make this Declaration based on my
21 personal knowledge.

22 2. On September 9, 2019, Mr. Diaz sent Nintendo “early” requests for production,
23 which requests are deemed served as of the date of the parties’ first Rule 26(f) conference and
24 then require responses within 30 days. The requests seek documents related to the merits of
25 Plaintiffs’ claims.

26 3. The day after Mr. Diaz sent the early requests, the parties agreed to request that

1 the Court extend the initial scheduling deadlines it originally set on July 30. I also informed Mr.
2 Diaz's counsel that Nintendo viewed the early requests for production as premature in light of
3 Nintendo's intent to move to compel arbitration.

4 4. On November 8, Plaintiffs contacted Nintendo to schedule a Rule 26(f)
5 conference, despite the pending Motion to Compel Arbitration.

6 5. Because Nintendo does not intend to engage in any litigation activity that could
7 undermine its right to arbitrate Plaintiffs' claims and because discovery is premature before the
8 Court rules on the pending arbitration motion, Nintendo sought Plaintiffs' stipulation to a further
9 extension of the deadlines until after the Court's ruling. Plaintiffs declined to so stipulate.

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11 I declare under penalty of perjury that the foregoing is true and correct to the best of my
12 knowledge.

13 Executed this 14th day of November, 2019, at Seattle, Washington.

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16 By: 
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Eric J. Weiss